



Convention on the Rights of the Child

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Consideration of reports of States parties

List of issues in relation to the combined second to fourth periodic reports of Switzerland

Addendum

Replies of Switzerland to the list of issues^{*, **}

[Date received: 27 October 2014]

Part I

Question I.1

Please indicate what measures the State party plans to take to strengthen horizontal coordination among the cantons in relation to the implementation of the Convention and whether the State party plans to establish a federal mechanism to effectively coordinate the implementation of the Convention in the State party.

1. From January 2015, Switzerland will coordinate its implementation of the Convention on the Rights of the Child as part of the follow-up to the recommendations of the Committee on the Rights of the Child. National-level coordinating action will be taken either through cooperation provided for by the federal Advancement of Children and Young People Act or through the relevant

* The present document is being issued without formal editing.

** The annexes are available on the website of the Office of the United Nations High Commissioner for Human Rights at:
http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Countries.aspx?CountryCode=CHE\u0026Lang=EN.

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Conference of Cantonal Ministers (the Conference of Cantonal Ministers of Social Affairs (CDAS)). Federal-level coordination will be delivered through a package of measures aimed at improving the implementation of children's rights. This package of measures will be developed in partnership with the relevant federal departments and should be submitted to the Federal Council in 2017.

2. As part of their implementation of the Advancement of Children and Young People Act, the federal authorities are working together with the cantons to launch an online information platform which will provide an overview of policy issues about children and young people in Switzerland. The objectives of the platform are:

- To increase information- and experience-sharing between the various entities involved in policies on children and young people;
- To facilitate the distribution of information on policies on children and young people to all interested parties.

3. The new online platform will be a resource for the various entities involved in policy on children and young people, in particular the Federal Government, the cantons, towns and municipalities, as well as the intercantonal conferences.

4. In addition, the Advancement of Children and Young People Act (article 26) allows the Federal Government to allocate funding to the cantons for programmes to establish and develop policies on children and young people. The funding is designed to kick-start those programmes: it is available for eight years following the entry into force of the Act and will therefore end in 2021. The Federal Social Insurance Office (FSIO) has drawn up a list of issues that could be considered, such as the protection, advancement, and participation of children and young people, as well as children's rights. (See also Part II, section (b).)

5. At the cantonal level, CDAS has been responsible for issues relating to policies on children and young people since 1 July 2011. CDAS works closely with its technical conferences — the Conference of Cantonal Managers for Child Protection and Youth Support (CPEAJ) and the Conference of Cantonal Delegates for the Advancement of Children and Young People (CPEJ) — in which all 26 cantons are represented.

6. The annual meetings of CPEAJ and CPEJ, organized by CDAS, enable practitioners in the cantons who are involved in the protection and advancement of children and young people to meet and discuss particular topics, priorities and needs, as well as to exchange good practice in relation to policies on children and young people.

7. In addition, CDAS actively supports the cantons in their implementation of the Advancement of Children and Young People Act. It keeps the cantons regularly informed of developments in national policy on children and young people, supports their efforts to develop their policies and ensures regular information-sharing, one of the aims of which is to coordinate the cantons' various actions.

Question I.2

Given that the State party has adopted various child-related strategies since 2002, please indicate what measures have been taken to develop a

comprehensive policy on children in Switzerland that aims to place the various existing strategies within a consistent framework for the realization of all Convention rights.

8. In 2008, the Swiss Government adopted a strategic policy on children and young people. This led to the adoption in 2011 of a new law, the Advancement of Children and Young People Act, which now determines the policy of Switzerland on this issue.

9. Policy on children and young people normally falls within the competence of the cantons: the Federal Government may only act on a subsidiary basis. To allow the Federal Government greater freedom to act in this area, a parliamentary initiative was submitted in 2007 requesting the inclusion of an article in the Federal Constitution on the protection, advancement and participation of children and young people. A report is currently being drafted on the status of policy on children and young people which will show how interaction between the Federal Government and the cantons is implemented both in legislation and in practice.

10. As a follow-up to the recommendations of the Committee on the Rights of the Child, the intention is to develop measures with the cantons (represented by CDAS) and the relevant federal authorities to address the gaps that have been identified in the implementation of the Convention on the Rights of the Child at the federal level (see reply to question I.1 above). The authorities provided for in the Advancement of Children and Young People Act, as well as bodies within CDAS, ensure that information is shared between the Federal Government and the cantons.

11. In addition, CDAS supports, encourages and coordinates cooperation between the cantons on social policy. On an intercanton level, CDAS exercises a leading sociopolitical function and promotes cooperative federalism. As children and young people have recently been established as a separate subject area within CDAS, the cantons are now developing their own policy on that area. The aim of having a separate subject area is so that each canton may have its own global, coordinated policy on children and young people. This will be achieved through cooperation and information-sharing, identifying good practice, and developing recommendations for the cantons, together with the Federal Government and the institutions pursuing the same goals.

Question I.3

In the light of the information provided in paragraph 50 of the State party's report (CRC/C/CHE/2-4), please indicate what measures have been taken to implement the recommendation made by the Committee in 2002 (CRC/C/15/Add.182, para. 16) to establish a federal independent human rights institution to monitor and evaluate progress in the implementation of the Convention that is accessible to children and is empowered to receive complaints of child rights violations.

12. In 2009, the Government decided to establish the Swiss Centre of Expertise in Human Rights for a five-year trial period. The Centre is an extensive network of universities, which include the Universities of Berne, Neuchatel, Fribourg and Zurich, as well as partner institutions such as the Kurt Bösch University Institute,

the Centre for Human Rights Education at the University of Teacher Education in Lucerne and the association humanrights.ch/MERS. The Centre of Expertise began its work in spring 2011. It has conducted and published many studies, organized events and seminars on various topics and managed to establish itself as a recognized actor in the human rights field. Several of the Centre's projects are directly concerned with implementing children's rights, including a "situation report of institutions with a role in monitoring children's rights in Switzerland" and a conference, held in October 2013, on the potential effects of the ratification of the third Optional Protocol to the Convention on the Rights of the Child. The trial phase will conclude at the end of 2015. In accordance with the Government's decision in 2009, the Centre will undergo an independent evaluation in the first quarter of 2015, when it will have been operational for four years. Based on the results of the evaluation, the Government will decide whether a long-term solution should be put in place and, if so, what form that should take.

Question I.4

Please inform the Committee about steps taken to establish a single and comprehensive system for collecting disaggregated data covering all aspects of the Convention so as to enable the State party to analyse the situation of all children, assess the progress made in giving effect to their rights, and further develop policies and programmes to implement the Convention.

13. As part of their implementation of the Advancement of Children and Young People Act, the Federal Government is putting in place an online information platform, which will provide an overview of policy issues with regard to children and young people in Switzerland. The aim is to create an online support tool providing specialists in this field with a quick and practical way of accessing information about all policies relating (i) to children and young people (protection, advancement and participation) and (ii) to the measures put in place by the relevant authorities. This platform will facilitate the dissemination and exchange of information, ideas, experiences and good practice. The platform will go online at the end of 2015. The Federal Social Insurance Office is working in partnership with CDAS on the conceptualization, development and maintenance of the platform. An advisory group, made up of experts from five cantons, is supporting the technical set-up of the platform. The platform will not, however, provide as large and detailed a collection of data as mentioned in the question, other than on an ad hoc or topic-specific basis.

Question I.5

Please indicate the measures taken or planned to systematize the dissemination of and training on the Convention in the State party. In particular, please indicate whether children's rights education is part of the school curriculum for children in all cantons and, if so, at what levels of education. Please also indicate what measures have been taken to ensure that all professionals working with or for children receive regular training on the Convention.

14. At the national level, the Federal Government is supporting the “éducation21” Foundation with 60,000 Swiss francs of funding. This is part of the “Rights of the Child” fund, which makes a total of around SwF 200,000 available every year for the production and distribution in schools of educational resources and teaching materials on children’s rights, tailored to different syllabuses. The provision of continuing professional development for teachers is also included. The “éducation21” Foundation was created just over two years ago by the Swiss Conference of Cantonal Ministers of Education (CDIP). It is a centre for sustainable development expertise and services, designed to be of benefit to the cantons, schools, teachers and teacher training institutions.

15. In addition, various institutions are active in this field in Switzerland, in particular:

- The Centre for Human Rights Education at the University of Teacher Education in Lucerne, which aims to disseminate among schools and teachers both the fundamental principles and practical experiences of human rights education, including children’s rights. Within children’s rights, the Centre focuses particularly on issues related to violence, racism and discrimination but also to the right to food, and cultural and other types of diversity.
- The Kurt Bösch University Institute in Sion includes an education unit on children’s rights — the International Institute for the Rights of the Child. The unit runs courses up to Master and Master of Advanced Studies levels on the Convention on the Rights of the Child, focused on children’s rights proper, on child protection or on forensic psychology with regard to children, adolescents and “child victims”.

16. As regards educational content, it is particularly worth noting the new plans of the different linguistic regions for the compulsory education years (pre-school, primary and middle school). In French-speaking Switzerland, the PER (French-language syllabus), is already being taught. With regard to the Convention on the Rights of the Child, the PER sets out an introduction to children’s rights, duties and responsibilities, as well as a comparison between the rights and duties of children in Switzerland and those in other countries. It also pays close attention to the differences in the ways girls and boys are treated. In German-speaking Switzerland, the LP21 (“Syllabus 21”) is in the final stages of being rolled out. Teaching about the Convention on the Rights of the Child is covered under the subject heading “Nature, People and Society”. The syllabus particularly emphasises the rights and duties that are needed to live together on the basis of norms and shared, common values. The aim is not only to increase students’ knowledge (especially about the Convention on the Rights of the Child), but also to equip them with the necessary skills in this field.

17. Furthermore, the Convention on the Rights of the Child is disseminated, and training provided on it, at the annual meetings of the Conference of Cantonal Managers for Child Protection and Youth Support and the Conference of Cantonal Delegates for the Advancement of Children and Young People. The committees of the two Conferences meet four times a year and their members represent the four linguistic regions of Switzerland. This is an effective way of making information available. In addition, CDAS regularly sends news and other information about children’s rights to members of these two Conferences.

Question I.6

Please indicate the measures taken or planned to regulate the activities of multinational corporations that are based in Switzerland but operate abroad. Please indicate whether, under the State party's current legislation, any proceedings have been brought against companies whose activities abroad violate the Convention, whether through the use of child labour or through environmental degradation harmful to the health of local population groups, including children.

18. In accordance with the principles enshrined in its Constitution, Switzerland actively promotes respect for human rights, both at home and abroad, particularly where the economy is concerned. For example, Switzerland has made a substantial contribution to the development of the Guiding Principles on Business and Human Rights. In June 2011, it also contributed to the addition of a human rights chapter in the Guidelines for Multinational Enterprises of the Organisation for Economic Co-operation and Development and has been an advocate of the United Nations Global Compact for many years. As part of its work on economic development cooperation, Switzerland also helps partner countries to abide by their obligations to uphold relevant social standards and helps companies to assume their responsibilities in the area of human rights in general and children's rights in particular.

19. For example, through economic cooperation programmes Switzerland supports projects of the International Labour Organization to improve working conditions in the business world, both for direct suppliers to multinational companies and for subcontracting small and medium enterprises. All stakeholders, from the government to the private sector and trade unions, take part in these activities, which are mainly based on respect for fundamental employment rights.

20. For many years, the Government has been following global developments in the fields of economics and human rights and scrutinizing its actions in the light of the norms and practices of international law. The United Nations Guiding Principles on Business and Human Rights, inter alia, have substantially informed the debate on this subject. The Federal Government has launched a multiparty dialogue aiming to consider with actors outside government (including businesses, experts and representatives of civil society) how the Guiding Principles could be implemented. In response to a Parliamentary procedural request (Postulate 12.3503 "A Ruggie strategy for Switzerland"), the Government is currently developing an implementation strategy for the Guiding Principles.

21. In response to another Postulate (12.3980 "Comparative law report: human rights and environmental due diligence mechanisms for Swiss commercial activity abroad"), the Government commissioned a comparative law report about current approaches used in other countries to fulfil the obligation of company boards of directors to put in place human rights and environmental due diligence mechanisms for all their commercial activity abroad and also to make public the measures taken in this regard. On the basis of that report, the Government is outlining some potential legislative measures, but has not made any recommendations and has made

clear that any steps that might be taken should not diminish Switzerland as an attractive location to do business and should not isolate Switzerland internationally.

22. Lastly, it is worth noting two recently submitted Parliamentary procedural requests. The first (Postulate 14.3663 “Access to compensation”) requests: (i) that the Government draw up an analytical report on the judicial and non-judicial measures other States use to allow those whose human rights have been violated by a company located in a host country to have effective access to compensation in the home country of that company; and (ii) that, on the basis of that report, the Government consider the need for additional measures in this context. The second (Motion 14.3671 “Implementation of the comparative law report of the Federal Council on the responsibility of business enterprises to respect human rights and the environment”) requests that the Government propose that due diligence procedures regarding human rights and the environment become compulsory. Parliament has yet to discuss and decide on the two requests.

23. We are not aware of any cases that have been brought in Switzerland against companies conducting business abroad which concern the use of child labour or damage to a child’s health as a result of environmental damage.

Question I.7

Please inform the Committee about any measures taken to eliminate discrimination against unaccompanied refugee, migrant and asylum-seeking children, particularly with regard to their right to vocational training, and against undocumented children in situations of extreme vulnerability and hardship in the State party. Please indicate whether an impact assessment of the various measures taken to combat racial discrimination and discrimination against foreign children has been conducted and, if so, describe the results. Please also indicate the steps taken to overcome stigma against lesbian, gay, bisexual, transgender and intersex children and adolescents.

Action taken concerning the integration of migrants

24. Overall, the aim of encouraging integration is to identify in a timely way the risks and benefits of removing obstacles through appropriate measures. In this way, children with a migrant background may, in accordance with the principle of equal opportunities, benefit from high-quality education and guidance from an early age on the same basis as others. The Federal Office for Migration supports action in the following areas:

25. **Dialogue on integration:** the Tripartite Conference on Urban Areas, a political platform of the Federal Government, cantons, towns and municipalities, issued on 27 June 2014 thirteen recommendations aimed at improving conditions for physical, psychological and social development during early childhood. The recommendations give concrete expression to the objectives of the dialogue on integration, which was launched in November 2013 under the title “A healthy life from birth onwards”. By means of the dialogue, the Tripartite Conference aims to inform families, regardless of their nationality or social background, of what is available in the local area in terms of medical care, support for families and integration activities, and to encourage families to make use of these amenities. This

calls for respect for diversity and better networking on the part of the agencies involved.¹

26. **Early childhood education:** nationally, early childhood education is primarily the responsibility of the cantons and municipalities and not something that the Federal Government deals with centrally. The main legal bases in this regard are the Convention on the Rights of the Child and the particular provisions of the Federal Constitution on children's well-being (articles 11 and 67), as well as the social objectives of the Federal Constitution. As part of the priority programmes on integration of the Federal Commission on Migration and the Federal Office for Migration, various projects were supported between 2001 and 2003 in the areas of community integration (e.g. contact groups for mothers) and language and training (e.g. the "MuKi/ElKi-Deutsch" project). Between 2009 and 2011, the Federal Office for Migration and the Federal Commission on Migration jointly launched a pilot project called "Encouraging pre-school integration", which aimed to improve access to provision for parents and children with a migrant background, strengthen the intercultural skills of staff and advance conceptual work on this topic, particularly within the municipalities. A total of 66 innovative projects were supported financially from federal funds allocated to promoting social integration. In early 2009, the Federal Commission on Migration also drew up a situation report on the state of research on early childhood education, as well as on practice and social discourse on this topic. On the basis of the report, the Commission has developed practical recommendations with regard to policy, target groups, provision, training and research. On the basis of the key findings of the report, a programme called "Promoting integration at the pre-school stage: qualification of staff and study" was announced in 2012. Between 2012 and 2014, the Federal Office for Migration has supported a total of 21 projects, including five studies. Since 2014, promoting integration at the pre-school stage has been an integral part of targeted promotion (cantonal integration programmes 2014 -2017).²

27. On 6 October 2014, the Federal Office for Migration presented its report on the Federal Government's efforts to encourage integration and their impact on the cantons in 2013. The report provides information on the use of federal funding allocated to encouraging integration. In 2013, the Federal Office for Migration contributed a total of 13.4 million Swiss francs to support a wide range of measures adopted by the cantons for linguistic, professional and social integration of migrants. Since 1 January 2014, the cantons have been responsible for the implementation of integration measures. To that end, and together with the Federal Government, the cantons have prepared a set of cantonal integration programmes. They include measures to guard against discrimination and focus particularly on early childhood education, training and employment. They include a wide range of benefits, from tailored advice for migrants to community interpreting in hospitals as well as language courses adapted to the working environment of the participants. The annual report also shows how the Federal Office for Migration is encouraging integration through countrywide programmes and projects, focusing inter alia on neighbourhood development, promoting language learning for use in everyday life, and more sensitive issues such as forced marriage. An initial overall assessment of these programs will take place at the end of the first four-year period.

¹ www.dialog-integration.ch > Dès la naissance > 13 recommandations.

² www.ekm.admin.ch/ekm/fr/home.html > "Projets"> "Encouragement précoce".

Professional training measures

28. Generally speaking, the Vocational Training Act aims to foster both personal and professional growth and development, as well as social integration and equality of training opportunities for everyone. The Act provides, inter alia, for:

- Promotion of measures for disadvantaged groups (article 7 in conjunction with article 55 (1) (e) and (f));
- Preparation of basic vocational training (article 12): measures (known as ‘bridges’) for young people who have individual learning gaps at the end of their period of compulsory education;
- Vocational, university and careers guidance (article 49): assessment of the specific strengths and weaknesses of foreign nationals;
- Grants for particular services of public interest (article 55): support for specific projects intended to promote the integration of young people with a migrant background.

29. Other measures and projects being planned include:

Coaching/Mentoring

30. Coaching and mentoring is available as tailored support for young people during their period of compulsory education. Support is available, for example, for developing professional and social skills or improving the quality of job applications. In addition to the cantons, private organizations are also running projects and programmes.

Vocational training case management

31. A priority aim of social policy is to integrate young people into the world of work and the wider society. Training undertaken after compulsory schooling makes a significant contribution to successful social integration and so to preventing poverty. The introduction of vocational training case management has given the largest possible number of young people the chance to undertake initial vocational training. The long-term objective of these efforts is to increase the pass rate of young people at upper secondary level (*degré secondaire II*) from 90 to 95 per cent by 2015. Vocational training case management is a structured process. The department responsible ensures that the process is coordinated, monitored and follows what was originally planned, outside the confines of the individual educational institution, during the period in which a young person is choosing a profession, and the length of the training. The key aspects of the process are supporting efforts to empower vulnerable young people and improving outcomes of the measures taken.

32. In 2014 and 2015, the Federal Office for Migration is supporting an exercise to assess the situation as regards adolescents and young adults who have come to Switzerland late in the education system. The aim of the exercise is to increase their levels of participation in training and to eliminate barriers or discriminatory elements.

33. An amendment (article 31) to the Ordinance of 24 October 2007 on Admission, Period of Stay and Employment, which took effect on 1 February 2013,

defines the conditions under which young undocumented foreign nationals may access vocational training. They can apply for a residence permit in order to be able to sign a contract with an employer. Any of their parents, brothers or sisters who are also residing without authorization may regularize their status at the same time. In the year after this amendment was implemented, only two applications were submitted to the Federal Office for Migration. As a result, the Office organized a workshop with stakeholders in the second half of 2014 which focused particularly on undocumented persons and learning. Within this framework it will also be considered whether further amendment to the Ordinance is desirable.

34. It is worth noting here that the right to free basic education is guaranteed to all children living in Switzerland by article 19 of the Swiss Constitution, article 28 of the Convention on the Rights of the Child and article 13 of the International Covenant on Civil and Political Rights. The Constitution obliges the cantons to provide an adequate basic education that is available to all children without discrimination (article 62 (2)). In its recommendations of 24 October 1991 on the education of children of foreign language background the Swiss Conference of Cantonal Ministers of Education was already emphasizing that, regardless of their residence status, “all children of foreign language background living in Switzerland should be integrated into the public school system.”

Measures to tackle racial discrimination

35. The Service for Combating Racism supports projects that contribute to combating discrimination in Switzerland against disadvantaged persons on the basis of their origin, race, language or way of life. The Service has an annual budget of SwF 900,000, which enables it to contribute to the funding of projects run by municipal or cantonal institutions, NGOs, associations, schools or private individuals. In the school sector, sixteen anti-racism projects were approved and supported in 2013 to the amount of SwF 267,400 (total amount of support from 2001 to 2013: SwF 4,732,827). In 2011, and after ten years of work, an initial assessment was made of this financial assistance. The results show that the themes of racism prevention, international interaction and human rights education are seen as very important and topical. Continuing professional development for teachers on these complex issues is also considered as essential. The role of financial assistance is considered all the more important when people are directly affected, as, for example, in cases of racist violence near a school, discrimination between groups of pupils or youth violence. The suggestions made in this initial assessment have led to changes in the way financial assistance is designed.

Measures relating to young lesbian, gay, bisexual, transgender and intersex people

36. Online hate speech is more and more frequent in Switzerland also, mostly on the Internet, in the form of comments on social networks such as Facebook, as well as in the form of photos and blogs, and on Twitter. Hate speech is primarily based on intolerance and on discrimination and hostility towards minorities, including towards young lesbian, gay, bisexual, transgender and intersex people. To raise awareness of hate speech among young people, Switzerland participates in the Council of Europe’s extensive campaign launched in 2013, the “No Hate Speech Movement”. The Swiss National Youth Council, an umbrella organization for youth

organizations nationwide, has been tasked by the Federal Social Insurance Office with developing various activities and with creating a specific online presence for this campaign in Switzerland (www.sajv.ch/de/projekte/no-hate-speech/), which is expected to last until spring 2015. The campaign's objectives are: to encourage more responsible behaviour when using new media and the Internet; to undertake to support human rights and combat discrimination, both online and in everyday life; and to create a network of young online activists who are committed to supporting human rights and to helping and advising the victims of online hate speech.

37. It is also worth noting here the activities of LGBT Youth Suisse, which is an association founded in 2010 by young people from across the country. LGBT Youth Suisse is a member organization of the Swiss National Youth Council, and aims to develop a positive environment for young lesbian, gay, bisexual, transgender (LGBT) and queer people by improving the visibility of LGBT young people and raising public awareness about LGBT issues. Last year, the Federal Youth Session discussed the issue of homophobia. In 2014, the Youth Session is organizing, with the support of a number of eminent Swiss people, an awareness-raising campaign "NO to homophobia, YES to tolerance", with posters that will be publicly available at the University of Zurich for a few weeks as well as being viewable on Twitter amongst other platforms.

38. School projects about human rights or tackling discrimination, as well as projects initiated pursuant to the Advancement of Children and Young People Act may also address lesbian, gay, bisexual, transgender and intersex issues.

Question I.8

Please indicate the measures taken to ensure that the best interests of the child are systematically taken into account in the State party's relevant laws. Please also indicate whether the impact of legislation and planned measures on children is assessed prior to their adoption. If so, please provide specific examples.

39. In Switzerland, the legislature does not use the expression the "best interests of the child" (*intérêt supérieur de l'enfant*) but rather the "well-being of the child" (*bien de l'enfant*). The concept of the "well-being of the child" became a formal constitutional right on 1 January 2000, with the inclusion in the Federal Constitution of article 11, which gives children and young people, in paragraph (1), the "right to the special protection of their integrity and to the encouragement of their development."

40. These changes have been reflected in recent legislative changes in both civil procedure and civil law. Thus, the new Code of Civil Procedure, which entered into force on 1 January 2011, not only provides special rules for proceedings relating to children in family law cases, but also enshrines a child's right to be heard and represented (articles 295-303, Code of Civil Procedure). On 1 January 2013, a new right of protection for adults and children came into force and contains similar provisions (article 314 et seq, Civil Code).

41. Parliament also explicitly recognized the importance of children's well-being when it amended the Ordinance on the placement of children outside the family

home. This amendment came into force on 1 January 2013. With the Ordinance forming part of the legislation on child protection, which is regulated in the Civil Code, it is subject to a requirement to focus on the well-being of the child. Under article 1a(1) of the Ordinance, the principle of children's well-being takes precedence over the more detailed provisions and must be taken into consideration in two separate ways. First, it must be established in general terms whether day foster carers or foster parents, children's care homes, private organizations or people who offer services related to placing children with foster parents are entitled to receive or retain approval. Second, it must be assessed on a case by case basis whether a placement can be arranged or extended taking into account the individual situation. Article 1a(1) is intended primarily for authorities which grant approval and carry out monitoring. However, it is also intended for day foster carers, kindergartens, foster parents, children's care homes or people who offer services related to placing children with foster parents.

42. An amendment to the Civil Code relating to parental authority, which came into force on 1 July 2014, also takes account of the requirements of the Convention on the Rights of the Child. In article 296 of the Civil Code, the legislature established the principle that "[p]arental authority serves the well-being of the child" (paragraph 1) and that "while still a minor, a child is subject to the joint parental authority of their father and mother" (paragraph 2). This amendment not only seeks to guarantee the equal treatment of both parents in the case of separation or divorce, but more particularly, it also ensures every child's right to maintain good relations with their parents (article 9 (3), Convention on the Rights of the Child). This is all the more necessary in light of the fact that the foundation of the contemporary family is no longer the couple, the length of whose relationship may be uncertain, but rather the parent-child relationship. The legislature therefore decided to make joint parental authority the norm, regardless of the marital status of the parents (article 296(2), Civil Code). It is still possible to grant exclusive parental authority to one parent, but only if this arrangement is necessary for the well-being of the child (article 298 (1), Civil Code).

43. The well-being of the child also plays a key role in the draft amendment to the Civil Code on a child's right to maintenance. This draft amendment forms the second part of the legislative reform on parental responsibility after separation, divorce or, more generally, when the parents are not living together as a couple. As with the issue of parental authority, the law on child maintenance should be strengthened and arranged so that no child is disadvantaged because of the marital status of their parents. The Federal Council approved the draft amendment on 29 November 2013. Parliament is currently in the process of scrutinizing the draft.³

44. The well-being of the child is a central theme of debate in two other bills currently before Parliament.

45. The preliminary draft amendment to the law on adoption, which was subject to consultation until 31 March 2014, enshrines the desire to put children's well-being at the centre of adoption decision-making. The suitability of the adopter or adopters will always be assessed in the light of the well-being of the child, as it is important to verify in each individual case whether circumstances allow a clear view to be taken that the adoption will serve the child's well-being. In addition, the proposed

³ www.bj.admin.ch/bj/fr/home/gesellschaft/gesetzgebung/kindeunterhalt.html.

amendment gives the authorities more scope to depart from certain adoption procedures where this would serve the child's well-being, thus allowing the circumstances of each individual case to be taken into account more effectively.⁴ The Government is in the process of preparing a proposal to put to Parliament on the basis of the results of the consultation.

46. Finally, a new "Obligation to notify child protection authorities" Bill will enable child protection authorities to intervene without delay if a child's well-being is under threat. By agreeing Motion 08.3790 "Protecting children against mistreatment and sexual abuse" (proposed by Aubert Josiane), Parliament, inter alia, instructed the Government to draft an amendment to current legislation that would make applicable across all cantons the obligation to report to the child protection authorities, with a number of clearly defined exceptions. The Government's preliminary draft, which was subject to consultation until 31 March 2014, imposes a reporting obligation on professionals who are regularly in contact with children as part of their work where they have reason to believe that a child's well-being is under threat. Those bound by professional confidentiality will not be required to notify the authorities of cases where a child's well-being is in doubt, but they may do so without releasing themselves from professional confidentiality. The Government is in the process of preparing a proposal to put to Parliament on the basis of the results of the consultation.

47. We should also note that, when new or amended legislation relevant to children and young people is being prepared, the draft bills or clauses are submitted to the cantons, political parties represented in Parliament, associations representing the municipalities, towns and cities and mountain areas, as well as associations representing business and other sectors concerned, including non-governmental organizations. At the national level, the Federal Commission for Child and Youth Affairs monitors the situation of children and young people in Switzerland and assesses the potential impact on them of planned measures and significant legislative provisions. As with other cantonal conferences, CDAS also follows these consultation procedures. Those who work professionally with children and young people in the cantons submit their views before policy decisions are taken. For example, in the case of the Ordinance on the placement of children outside the family home, the cantonal experts requested that the new Ordinance state that the well-being of the child be the most important criterion when considering the placement of a child. This request was approved.

Question I.9

Please indicate what measures have been taken to prohibit the use of certain psychiatric treatments on children with autism spectrum disorders, particularly the "packing" technique (wrapping the child in cold, wet sheets).

48. In Switzerland, the "packing" technique is not recognized by the social insurance schemes (health insurance and invalidity insurance). The technique is therefore not used (see also the reply to Question I.18 below).

⁴ www.bj.admin.ch/bj/fr/home/gesellschaft/gesetzgebung/adoptionsrecht.html.

49. The association “autisme suisse romande” brings together parents and friends of people with autism and professionals working with autism. Recognized by the Federal Social Insurance Office, the association’s aim is to safeguard the rights and interests of those with autism and their families. “Autisme suisse romande” believes that “packing” has no basis in science, that it is an obsolete and abusive practice and is therefore not recommended.

Question I.10

Given that a fourth “baby hatch” opened in the city of Bern in October 2013, and that more such hatches are planned, please explain whether any measures have been taken following the parliamentary initiative launched in 2009 to find an alternative to this approach and, if so, describe those measures. Please also indicate the legislative framework established in this regard.

50. Following a decision of the Swiss Parliament on 21 September 2009, no action has been taken regarding the two Parliamentary Initiatives “Giving birth anonymously to resolve a dilemma” (08.493 of 3 October 2008) and “Allowing anonymous births to better protect life” (08.454 of 29 September 2008). There is therefore no reason either to actively seek alternative solutions or to create legal bases in this regard. As stated in its response of 26 February 2014 to the parliamentary request “Better support for mothers in difficulty and vulnerable families” (Postulate 13.4189), the Government considers that the cantons already have the power to set up suitable advice centres and emergency hotlines for pregnant women and mothers in difficulty, as well as to take other needs-based measures, such as the provision of “baby hatches”.

Question I.11

Please indicate what measures have been taken to reform legislation so as to explicitly prohibit all forms of corporal punishment in all settings, including in the home, and to eliminate all references to the “right to inflict corporal punishment” as mentioned in paragraph 162 of the State party’s report.

51. No measures have been taken in criminal law to explicitly prohibit corporal punishment of children. As outlined in its response to the parliamentary request “In support of an upbringing without violence” (Motion 13.3156), the Government believes that, in view of article 126(1), and (2)(a) (Acts of aggression) and article 123 (Assault in which a person intentionally causes an injury to the person or health of another which is not serious, lasting or life-threatening) of the Criminal Code, Switzerland complies with the requirements of the Convention on the Rights of the Child regarding the protection of children against all forms of physical or psychological violence. The Government believes the introduction of a specific offence would not be relevant or sensible. It would be contrary to the spirit of the Criminal Code, which is universally applicable, would create duplication and would lead to problems of defining the limits of existing offences. Parliament (the National Council) rejected this parliamentary request on 17 June 2014.

52. It is also worth noting that, since 1 July 2014, and following the entry into force of new rules on parental authority, the Civil Code enshrines the principle that

parental authority must serve the child's well-being (article 296(1), Civil Code). In article 311(1)(1) of the Civil Code, the legislature added violence to the possible grounds for the removal of parental authority where other child protection measures have failed or seem insufficient from the outset, regardless of whether the child is him- or herself the victim of the violence, or is only indirectly a victim of violence inflicted by one parent on the other.

Question I.12

In the light of estimates indicating that a significant number of girls and women living in Switzerland are subjected or in danger of being subjected to female genital mutilation, please provide updated information on the measures taken to prevent this practice — including training for health practitioners on how to better identify and understand the practice — and to inform the girls most at risk. Please also indicate whether any prosecutions have been brought against persons responsible for such practices, and the sentences handed down since 2011 under article 124 of the Criminal Code. Please also provide updated information on the fight against early and/or forced marriage.

53. Under criminal law, forced marriage, including attempted forced marriage, has been explicitly punishable in Switzerland since 1 July 2013 (article 181a, Criminal Code). Anyone found guilty of forcing another person to enter into a marriage or registered partnership by acting violently against that person, or by threatening them with serious harm, or by otherwise obstructing their freedom to act, may be punished by imprisonment for up to five years or by a monetary fine (article 181a(1)). Anyone who commits the foregoing offence abroad but is now in Switzerland and has not been extradited is liable to the same penalty (article 181a(2)).

54. As of 1 July 2012, actual and attempted female genital mutilation is explicitly punishable under article 124 of the Criminal Code. This article provides for the punishment of anyone found guilty of mutilating female genital organs, of seriously and permanently damaging their natural functions or harming them in any other way (article 124 (1)). This also applies to anyone who has carried out the mutilation abroad but is now located in Switzerland and has not been extradited (article 124(2)). To date, no court rulings have been made relating to this offence since the law came into force.

55. The Federal Office of Public Health has been fighting against female genital mutilation since 2003, both by taking preventative action and by raising awareness. Since 2005, the Office has been taking steps to implement the parliamentary Motion "Measures to raise awareness of and prevent female genital mutilation" (05.3235). In 2006, the Federal Government delegated prevention and awareness-raising work on this subject to Caritas Switzerland. Since then, Caritas Switzerland has, with the financial support of the Federal Office of Public Health and the Federal Office for Migration, run a mediation service "Preventing female circumcision", which provides:

- Information and awareness-raising: Caritas Switzerland provides information to and raises awareness among experts and institutions in the fields of health, integration, education and social affairs on how to address the issue of female

genital mutilation in their daily work and on what preventative measures are advisable and possible;

- Specialist advice: specialists who have particular grounds for concern or are faced with a specific case of female genital mutilation can seek advice from Caritas Switzerland about how to act and about official bodies with powers to intervene. Caritas can put them in contact with intercultural mediators who can provide support for such cases;
- Community-based prevention: Caritas Switzerland provides training for migrants so that they can play a liaison role within their communities and provides them with support for regional networking and for running information and prevention meetings;
- Literature and materials: Caritas Switzerland can provide professionals working in the field with specialist literature and other information materials, as well as programmes that can be copied and tools for work on prevention and raising awareness in communities;
- Knowledge transfer: Caritas Switzerland contributes to setting up round tables allowing cantonal agencies responsible for integration, health, social affairs, protection of minors, etc. and migrants involved in the field to network with one another. It is important for the authorities to gain the necessary skills to organize their own prevention actions.

56. In addition, information materials aimed at different target groups (immigrant population, health professionals) are developed in partnership with various organizations or through funding from the Federal Office of Public Health.

57. Lastly, the Office coordinates the national working group on female genital mutilation, which was founded in 2012. The group includes representatives of federal departments, non-governmental organizations, university institutes and immigrant communities. The working group aims to link up all those involved, to establish foundations and make recommendations in a coordinated manner for future measures for prevention, care and intervention. Based on information from the working group and by the end of 2014, the Federal Government will consider whether it should remain committed to tackling female genital mutilation.

Question I.13

Please provide information on the results of the assessment carried out by the Conference of the Cantons concerning the work of the mechanisms currently in place to protect children and the specific measures taken to fill in the identified gaps.

58. The new law on the protection of children and adults came into force on 1 January 2013. In article 440 of the Civil Code, it establishes minimum standards in federal law for the adult (and child) protection authorities, which must be professional and interdisciplinary, and involve at least three people in decision-making. This helps to professionalize child protection in Switzerland. It should also be noted that the Ordinance on the placement of children outside the family home, which came into force on 1 January 2014, requires the cantons to monitor work

carried out within existing structures. The cantons are currently putting in place mechanisms to carry out this monitoring. The working group set up by CDAS to implement the Ordinance ensures that information is regularly exchanged between the cantons on this subject and supports their implementation work.

59. The Conference of the Cantons on Protection of Minors and Adults organizes study days and other training courses related to adults' and children's rights to protection. In this way, it supports actively the new adult and child protection authorities, and ensures that staff working in those authorities are engaged in continuous professional development. To keep professionals regularly informed, the Conference publishes a Journal of Adult and Child Protection as well as other publications. It also drafts reports and recommendations.

60. CDAS coordinates the Conference of Cantonal Managers for Child Protection and Youth Support. The committee meets four times a year. A plenary meeting is held annually. These meetings allow cantonal managers to share good practice, define priorities, analyse their needs and seek common solutions to challenges they may face, particularly with regard to the placement of children, which is a key priority for the Conference.

Developing a concept for the planning of support for young people in an institutional environment

61. As part of a project launched in autumn 2014, the Federal Office of Justice is currently investigating ways in which the Federal Government can help launch the planning process for support for young people in an institutional environment. The first stage of this project involves developing, in partnership with the Federal Social Insurance Office, the cantons, CDAS, the Conference of the Cantons on Protection of Minors and Adults, and the Conference of Cantonal Justice and Police Directors, the concept of a national planning platform. The final concept for the platform should be available by the end of 2014. The objectives of the platform are to:

- Record data in a joint computer-based tool;
- Use a single model for data collection, in the most straightforward and comprehensive way possible;
- Link up the available data;
- Make the data available to stakeholders according to their responsibilities;
- Provide centralized opportunities for analysis;
- Facilitate knowledge transfer and discussion.

62. The data will be published on the "Young People's Policy" section of the Federal Social Insurance Office website (planned for January 2015).

63. Please also refer to the answers to question I.14 below and to question 6 on the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (OPSC).

Question I.14

Please provide updated information on the draft order introduced in 2009 on the placement of children outside their families. Please indicate what measures have been taken to reduce and prevent the institutionalization of children and to establish strict regulations and monitoring of children's placement at both the federal and cantonal levels.

64. The amendment of the Ordinance on the placement of children outside the family home came into force on 1 January 2013. It extended the protection afforded to children placed in a foster family until they reach legal adulthood. This means that placement in a foster family or care home is also subject to an authorization regime until the child reaches the age of 18. The law also provides that, where a foster family takes in a minor in exchange for remuneration, this arrangement is subject to authorization, but only if it lasts longer than a month, while non-remunerated fostering of less than three months remains exempt from authorization. The amendment introduced a duty to report and a duty to monitor for those services provided during a child's placement with foster parents which were previously unregulated. The amendments relate not only to the placement of children into foster families in Switzerland and abroad, but also to services such as support and basic and further training for such families, and also counselling and therapy for the children themselves. A central cantonal authority will be responsible for receiving information and overseeing service providers. If that authority becomes aware that serious misconduct is occurring, it may prohibit a service provider from carrying on its business until the problem is resolved. As regards overseeing placement, the Ordinance provides that the child and adult protection authority should ensure that each child is placed with a trustworthy person to whom the child may turn with any question or problem (article 1a(2)(b), Ordinance on the placement of children outside the family home). Some basic conditions are now imposed on placement abroad: host places are subject to authorization and oversight by the authorities. Further, to ensure that minors who are placed abroad are not left stranded, they will have a trusted contact in Switzerland, to whom they may turn at any time.

65. The Ordinance does not aim "to reduce and prevent the institutionalization of children" but to take the correct action at the correct time, recognizing that placement is not necessarily the worst solution. The Ordinance aims to ensure that a child who is placed outside the family home enjoys optimal conditions of care. The professionalization of authorities has been an important step towards achieving this aim, as interdisciplinary, specialized authorities are now competent to prescribe child protection measures. The Ordinance does not regulate the conditions or the process by which a child is placed with a foster family or in an institution. These matters are regulated by the Civil Code and its provisions relating to child protection. Child protection is subject to the principles of subsidiarity and proportionality. A placement is ordered by the competent authority (i) only if no other course of action can guarantee that the child concerned will be protected, and (ii) only for as long as necessary. As regards these measures, whether the child is placed in a foster family or in an institution mainly depends on the form of care that appears to be the most appropriate in the particular case.

66. Regarding the situation in the cantons, CDAS has set up a working group made up of representatives of the cantons who have responsibility for implementing the Ordinance. Having discussed the various provisions of the Ordinance with the Federal Office of Justice and informed the cantons with a view to coordinating implementation of the Ordinance in the cantons, the working group is looking at the issue of child placement organizations, and aims inter alia to maintain an updated list of certified placement organizations. Following the entry into force of the Ordinance, several cantons have developed (Central Switzerland) or are developing (Western Switzerland) quality standards for institutions, based on the quality label created by the association Integras for foster placement organizations.⁵ Compliance with these standards is a condition for obtaining authorization from the canton to operate. In March 2009, CDAS recommended to the cantonal ministers of social affairs that they implement and apply in practice the “Q4C” (Quality4Children⁶) quality standards when placing children. The CDAS Ordinance working group is currently analysing the possibility of rolling out these standards across the whole of Switzerland.

Question I.15

Please provide updated information on the review of adoption legislation (contained in the Swiss Civil Code) begun in 2013. Please indicate what percentage of international adoptions take place outside the framework of the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption (hereinafter referred to as the Hague Convention) and indicate how the State party monitors the conditions under which these adoptions are carried out. Please provide information on measures taken to systematically monitor the living conditions of adopted children and to ensure regular follow-up on these children in order to prevent and eliminate any ill-treatment they may suffer.

Partial revision of adoption law

67. The partial revision of the law on adoption was put for consultation to the cantons, political parties represented in Parliament and other people and organizations concerned. The Government is due to consider the report outlining the results of the consultation at the end of 2014, and then pass the bill and related report (message) as submitted to Parliament.

68. According to existing law, a married person may adopt the child of his or her spouse. Children raised by same-sex couples in a registered partnership or by cohabiting couples may not be adopted by the partner of their mother or father. Those children are therefore subject to unequal treatment compared to children raised by married couples. The preliminary draft aims to ensure that people who are in a registered partnership can also adopt their partner’s child. This measure favouring the well-being of the child would eliminated unequal treatment and establish a legal relationship between the child and the partner of her or his biological parent. As with married couples, the couples concerned could then fully

⁵ www.integras.ch.

⁶ www.quality4children.ch/index.asp?site=3&topic_id=68.

integrate the child into the family unit which they constitute and put in place the same arrangements that apply in the event of the death of a biological parent. As an alternative, the Government has proposed also allowing people living together as a de facto couple, whether homosexual or heterosexual, to adopt their partner's child. Providing couples with the opportunity to adopt their partner's child regardless of their marital status would take into account developments within society. The preliminary draft prepared by the Government also proposes amendments to the conditions for adoption. In the case of joint adoption and adoption by one person, the minimum age for adopters would decrease from 35 to 28. The minimum duration of the marriage would decrease from five to three years. Having lived as a single household for three years would be a further requirement for all couples to be eligible to adopt the partner's child. The Government's intention to make the adoption procedure more flexible is a step forward for children's well-being. The competent authorities would benefit from this increased flexibility; they would be able to waive certain conditions for adoption so as to better take account of the circumstances of the individual case. Under certain circumstances, they would for example be able to waive the requirement of a maximum age difference of 45 years between the adopters and the child, if this contributed to the child's well-being. The authorities would also be able to make exceptions to the requirement of a minimum age difference to ensure equality of treatment among siblings, by allowing a second child to be adopted and introduced into the family even if there were fewer than sixteen years between that child and his or her adopters. Lastly, the preliminary draft aims to relax adoption-related confidentiality, so that biological parents who wish to obtain information about or seek out a child they gave up for adoption may do so. They would be able to receive information about their child if the child gave his or her consent having reached the age of majority. Adopted children already have an absolute right in the law as it stands to know about their origins, irrespective of whether the biological parents consent to this.

Conditions for oversight of international adoptions that take place outside the framework of the Hague Convention

69. There are no official statistics in Switzerland recording the number of international adoptions arranged either within or outside the framework of the Hague Convention. However, a survey of cantons conducted in 2012 revealed that more than half of the children who came to Switzerland to be adopted that year were from a State party to the Hague Convention (126 out of 221). This proportion has tended to increase over the years, as increasing numbers of States ratify the Hague Convention.

70. The procedure for adopting a child from a country which is not a State party to the Hague Convention is laid out in the Civil Code, specifically in the Ordinance on Adoption. The procedure systematically starts by conducting an investigation of all essential circumstances (article 268a, Civil Code), which, if positive, leads to a certificate of suitability being granted certifying that the applicants are fit to become adoptive parents. The cantonal central authority appoints a social work or child protection professional to the investigation (article 5(5), Ordinance on Adoption). When a proposal for matching is made by the child's home State, the cantonal central authority checks whether the proposal matches the child profile for which the future adoptive parents were assessed and authorized. Once the matching has been agreed and the child has moved in with his or her (future) adoptive family in

Switzerland, a guardian or trustee is appointed until the adoption is formally recognized in Switzerland (in the case of placement with an adoptive family for at least a year) or until the adoption decision rendered in the child's home State is recognized in Switzerland. The cantonal central authority also appoints a person to make as many visits as necessary to the home of the future adoptive parents to monitor the conditions of care of the child. Lastly, if circumstances require it, the child protection authorities may take steps to protect the child, such as placing him or her with a foster family.

Monitoring living conditions of adopted children to prevent ill-treatment

71. When a child is placed for adoption, the role of the cantonal authority is to ensure that the conditions for authorization are observed. The authority appoints an appropriate person to make as many visits as necessary (with a minimum of two per year) to the home of the future adoptive parents. That person comes to an opinion on the conditions of care of the child and drafts reports to the cantonal authority about their visits. If the person observes shortcomings, the cantonal authority instructs the future adoptive parents to immediately take steps to remedy the situation and to write a report for the cantonal authority on how these steps have been implemented. If the conditions for authorization are not observed, the cantonal authority revokes its authorization, or the certificate of suitability, if only the latter has been issued. The cantonal authority then informs the competent child protection authority and, if necessary, the cantonal migration department.

72. After having been foster parents for a year, those who wish to adopt a child may file an adoption application. The competent authority then considers the case afresh — an initial assessment of suitability takes place when the application is filed to foster a child — in particular by assessing whether creating a permanent parent-child relationship serves the child's well-being. If the adoption is granted, the adopted child acquires the status of biological child of the adoptive parents. There is therefore no further monitoring of the permanent parent-child relationship, unless particular circumstances so require. If a child's well-being subsequently appears to be under threat, anyone may report the case to the child protection authority. If the authority become aware that a child's development is at risk and that the parents fail to remedy the situation themselves, the child protection authority takes the necessary measures.

Question I.16

Please indicate how the State party takes into account the best interests of children whose parents are likely to receive custodial sentences or are already imprisoned. In particular, please indicate what measures are taken to ensure that those children can maintain contact with their imprisoned parents and to ensure that children of imprisoned parents are not subjected to stigma or discrimination.

73. If a parent is imprisoned in Switzerland, this does not automatically lead to parental authority being withdrawn. The absence of a parent, even for an extended period, can only justify a decision to withdraw parental authority if that absence prevents the parent from exercising their authority. According to legal precedent,

particular rigour should be observed when evaluating the circumstances of such cases, as the withdrawal of parental authority, which constitutes the loss of a basic personal right, is only permissible if other measures to avoid the danger that the child faces — namely protective measures (article 307, Civil Code), deputyship (article 308, Civil Code) and the revocation of the right to decide on place of residence (article 310, Civil Code) — seem insufficient from the outset. The principle of proportionality of intervention requires particular consideration (see Federal Supreme Court judgements 119 II 9 (recital 4) and 5C.262/2003 of 8 April 2004, recital 3.3).

74. As to contact between imprisoned parents and their children, reference must be made to the regulations of detention facilities. Special attention is paid to interaction between imprisoned parents and their children. For imprisoned young mothers there are specific units where mothers can take care of their babies themselves.

75. The prison service works closely with child protection authorities to safeguard children's well-being. It goes without saying that the relationship with an imprisoned parent can be maintained within the framework of the right of access.

Question I.17

Please explain the measures taken to reduce the use of psychotropic drugs, particularly in the case of children with attention deficit hyperactivity disorder (ADHD) or attention deficit disorder (ADD), as the use of these drugs has become increasingly common in the State party in recent years. Please also indicate the measures taken to prevent children with disabilities from being hospitalized in psychiatric units and to ensure that such children are not arbitrarily deprived of the right to be visited by their parents.

76. The Federal Government's package of measures to reduce drug-related problems, together with national programmes focused on tobacco and alcohol, all aim to reduce the consumption of psychotropic substances through health promotion, prevention, early detection, therapy and harm reduction. The measures focus on prevention at a behavioural and structural level and are aimed at the whole population, as well as at particular vulnerable groups. A study commissioned by the Federal Office of Public Health, soon to be submitted to the Government, explains the substantial increase in the prescription of methylphenidate-based drugs as follows: scientific knowledge on the subject has led in recent years to a higher level of acceptance among psychiatrists of the use of drugs to treat children and young adults with this condition. This trend is probably a key factor in the increase in the number of prescriptions for methylphenidate. Up until now, ADHD was seen as a disease that only affected children and adolescents. It is now also possible to make diagnoses of ADHD among adults. This new development will probably also result in an increased number of prescriptions for adults in the coming years. Today's social environment makes it easier for parents to decide to seek advice in cases of suspected ADHD and to treat the disease with methylphenidate. This development is due mainly to the performance-driven society in which we live. In this context, a diagnosis of ADHD and treatment with methylphenidate are certainly being given with ever greater frequency as a means of preventing children and adolescents from failing at school and of providing them with better opportunities for their future. In

recent years, methylphenidate has assumed a marked symbolic dimension in political and social debates. This trend is having a negative impact on people with ADHD as it discredits treatments that are nonetheless necessary from a medical point of view. In light of this, the Federal Office of Public Health is proposing to the Government that, for the moment, it is not necessary to develop specific measures to reduce the prescription rate for methylphenidate-based drugs, but that it should follow developments closely. In addition, the Federal Office of Public Health has commissioned the University of Applied Sciences and Arts Northwestern Switzerland to develop, as part of a research project, a pedagogical approach to manage children who have behavioural difficulties but do not have ADHD, to ensure that, in future, only children who are genuinely suffering from ADHD receive drug-based treatment.

Question I.18

Please provide specific information on progress made in ensuring that inclusive education measures are standard practice for children with disabilities and in the transition from an integrative system to an inclusive system in all cantons, while allocating the necessary resources to do so. Please provide detailed information on the measures planned or already in place to address the exclusion of children with autism spectrum disorders from mainstream schools, particularly in the canton of Geneva, and their placement in day-care institutions. Please also specify what measures have been taken to more systematically diagnose and provide early and intensive intervention for these children and to expand the use of educational and developmental therapies and methods adapted to their needs.

77. In Switzerland, public education falls within the remit of the cantons (article 62(1), Constitution), as does the integration of children with disabilities into mainstream education. The cantons have considerable discretion in how they provide basic education. They must, however, guarantee free education tailored to the individual abilities and personalities of children and adolescents (articles 19 and 62(2), Constitution), as well as enforce the ban on all discrimination, as set out in article 8(2) of the Constitution. Education must be appropriate and sufficient to prepare pupils to take responsibility for their own lives.

78. Beyond the directly applicable ban on all discrimination, cantonal law as well as article 8(2) of the Constitution and article 20(2) of the federal Disability Discrimination Act encourage the integration of special needs education into mainstream schooling. The cantons ensure that children and adolescents with disabilities receive basic education that is tailored to their specific needs (article 20(1), Disability Discrimination Act). They encourage the integration of children and adolescents with disabilities into mainstream schools through appropriate forms of schooling, insofar as that is both possible and in the best interests of the child or young person with a disability (article 20(2), Disability Discrimination Act). The cantons ensure inter alia that children and adolescents with perception or articulation difficulties, as well as their close friends and family, have the opportunity to learn a communication method tailored to these difficulties (article 20(3), Disability Discrimination Act). The Act has its basis in the principles enshrined in articles 19 and 62(3) of the Constitution.

79. In October 2007, the plenary assembly of the Conference of Cantonal Ministers of Education adopted a new intercantonal agreement on collaboration in special education (the Agreement on Special Needs Education⁷). It was the first time that a national framework had been developed for the most relevant measures within special needs education. The main principles of the Agreement are:

- Special Needs Education forms part of the State education mandate;
- All children and young people living in Switzerland (from birth to the age of 20) who have special educational needs are entitled to appropriate special education measures;
- The distinction between those with invalidity insurance and those without has been abolished;
- With regard to special education, and taking proportionality into account, solutions that allow integration rather than separation are preferred, in accordance with the provisions of the Disability Discrimination Act;
- Special education, like compulsory schooling, is free of charge;
- Those with parental authority are to be involved in deciding which special education measures are to be implemented.⁸

80. Invalidity insurance is a universal social insurance, to which the whole population is entitled. Early childhood development disorders, including autism spectrum disorders, are congenital disabilities recognized by the invalidity insurance scheme. Therefore, those diagnosed with these disabilities are entitled to the full range of invalidity insurance measures. As regards the intensive treatment of early childhood autism in particular, disability insurance contributes — as part of a five-year project (2014-2018) — to the costs of medical measures, under certain conditions. These medical measures include various intensive, early intervention, and behavioural therapeutic methods and are available in five centres in Switzerland: Geneva, MuttENZ (canton of Basel-Landschaft), Riehen (Canton of Basel-Stadt), Sorengo (canton of Ticino) and Zurich. Treatment methods are of a medical nature (including elements of psychotherapy, occupational therapy and physiotherapy) and an educational therapeutic nature (including speech therapy and curative education — which provides both school education and medical care — and early education measures). Some additional benefits (e.g. travel expenses, board and lodging while away from home, etc.) are also covered by invalidity insurance in certain circumstances. For other types of treatment, invalidity insurance covers the customary medical measures (e.g. psychotherapy, occupational therapy and medication) and also aids and appliances. Children diagnosed with autism can also access a helplessness allowance, which is designed for anyone who, owing to impaired health, is in permanent need of the assistance of another person or of personal supervision in order to perform the basic tasks of everyday life. For those children who need it, the helplessness allowance can be supplemented by an additional allowance for acute care. Under certain circumstances, invalidity insurance may also award an additional allowance to children who are in receipt of a helplessness allowance.

⁷ http://edudoc.ch/record/87690/files/Sonderpaed_f.pdf.

⁸ http://edudoc.ch/record/87690/files/Sonderpaed_f.pdf.

81. A parliamentary procedural request (Postulate 12.3672) requests that the Government prepare a report on the situation of persons diagnosed with autism or a pervasive development disorder, as well as on the people close to them, with the aim of:

- Gaining an overview of detection, care and follow-up at both national and cantonal levels;
- Assessing whether current measures are both quantitatively and qualitatively adequate, and whether they make the best use of the means and resources available to all those involved;
- Exploring various avenues for improvement, including the possibility of establishing a common strategy setting out priority areas for action.

82. The Government approved the Postulate and the resulting report is likely to be adopted in the course of 2015.

Question I.19

Given the high teen suicide rate, please inform the Committee about measures taken to address the root causes of this phenomenon and thereby more effectively prevent teen suicide.

83. Parliament has adopted the parliamentary request “Suicide prevention: better use of the available resources”, which tasks the Government with presenting and implementing a suicide prevention action plan (Motion 11.3973). The Federal Office of Public Health is responsible for the implementation of the action plan, together with the Conference of the Cantonal Ministers of Public Health and the Foundation “Promotion Santé Suisse”. The National Health Policy Dialogue is setting the direction for how this work should develop. A draft suicide prevention action plan and related measures will be submitted at the end of 2015.

84. As part of the implementation of these measures in schools, the Federal Office of Public Health is supporting and reinforcing peer educators and specialists in prevention and health promotion, such as those working within the network “School + Health”. The priority is to improve the resources and skills of target groups, especially children and adolescents. In addition, it is worth mentioning that syllabuses for compulsory schooling in Switzerland (the PER (French-language) and the LP21 (German-language)) now focus on skills, including personal, social and methodological skills.

85. It is also worth mentioning the campaign “Stop young suicides!”⁹ organized as a private initiative by the “Pro Juventute” foundation. The Pro Juventute team “Advice and Support 147” receives significant funding (SwF 600,000 per year) from the Federal Social Insurance Office and provides daily support to approximately 400 children and under 18-year-olds across Switzerland. They receive professional advice and support 24 hours a day, free of charge and anonymously, by phone, text message or the Internet (via instant messenger chat and an information platform).

⁹ www.projuventute.ch/Stop-au-suicide-des-jeunes.2290.0.html?&L=1.

Question I.20

Please explain why the reservation to article 10, paragraph 1, of the Convention regarding family reunification has not been withdrawn as the Committee recommended in 2002 (CRC/C/15/Add.182, para.7). Please also provide detailed information on measures taken to address the inadequate protection for unaccompanied asylum-seeking children and the lack of adequate reception facilities in some cantons. In addition, please indicate why the Control Committee of the National Council discontinued its work on the rights of the child in the context of measures of constraint implemented under the Aliens Act.

86. Article 10(1) of the Convention on the Rights of the Child requires the States parties to ensure that applications for family reunification do not entail any adverse consequences for the applicants or the members of their family. Switzerland has issued a reservation to this article, noting that “Swiss legislation, which does not guarantee family reunification to certain categories of aliens, is unaffected.” We believe that it is appropriate to maintain Switzerland’s reservation to article 10(1) of the Convention on the Rights of the Child, as family reunification cannot always be guaranteed for all categories of aliens (e.g. asylum-seekers or rejected asylum-seekers).

87. Concerning the reference to the National Council Control Committee discontinuing its work, we would respond as follows. On 7 November 2006, the Control Committee sent to the Government its report on child protection as part of the coercive measures provided for in the law on aliens. The Government issued an official response to the report on 16 March 2007. On 4 September 2009, the Control Committee requested a situation report on the implementation of its 7 November 2006 recommendations. The report on the compliance with the rights of the child of coercive measures provided for in the law on aliens was adopted by the Government on 15 December 2009,¹⁰ on the one hand in response to a postulate of the Political Institutions Committee of the National Council of 31 January 2008, and on the other qua a report on the implementation of the Control Committee’s recommendations of 7 November 2006. The Control Committee considered the Government’s report at its meeting of 16 February 2010. In a letter to the Government dated 16 February 2010, the Control Committee welcomed the fact that the Government was fully aware of the importance of child protection as part of its coercive measures. The Committee requested further information and informed the Government that it had now completed its follow-up work. The Government sent the Committee the additional information it had requested on 19 May 2010.

88. With regard to improving protection measures for unaccompanied asylum-seeking children, it should be noted that, as part of the latest revision of the Asylum Act, a provision (article 17(2bis)) came into force on 1 February 2014 which requires asylum applications made by unaccompanied minors to be prioritized.

¹⁰ www.news.admin.ch/message/index.html?lang=fr&msg-id=30710.

Question I.21

Please indicate whether the State party intends to: withdraw its reservation to article 37 (c) of the Convention; raise the minimum age of criminal responsibility to an internationally acceptable standard, ensuring that it is no lower than 12 years; and guarantee the right to legal aid for all children in conflict with the law.

Reservation to article 37 (c) of the Convention on the Rights of the Child (separation of young people deprived of liberty from adults)

89. Under Article 48 of the Juvenile Criminal Law Act, the cantons have until the end of 2016 to establish the necessary institutions for the placement of minors (article 15) and for the detention of minors (article 27). Some cantons already have these institutions in place. By the end of 2016, this requirement will have been implemented, and the separation of young people deprived of liberty from adults will be complete. Switzerland will then be able to withdraw its reservation to article 37 (c) of the Convention on the Rights of the Child.

Minimum age of criminal responsibility

90. Switzerland does not intend to raise the minimum age, which is 10 years old. Swiss criminal law relating to minors does not focus on the misdemeanour, but on the perpetrator. Its primary aim is not to retaliate but to protect and educate children and adolescents. This applies to anyone who commits a criminal offence when they are between 10 and 18 years old (article 3(1), Juvenile Criminal Law Act). However, up to the age of 15, the Act only provides for protective measures or light sentences (reprimand or period of up to 10 days' community service (articles 12 et seq, 22 and 23, Juvenile Criminal Law Act). Harsher penalties, such as fines and detention, cannot be handed down to minors who are less than 15 years old (articles 23(6), 24 and 25, Juvenile Criminal Law Act).

Right to legal aid for all children in conflict with the law

91. The Juvenile Criminal Procedure Code provides that juvenile defendants and their legal representatives may appoint a lawyer (article 23, Juvenile Criminal Procedural Code). Where juvenile defendants or their legal representatives do not appoint a lawyer themselves, the competent authority appoints a defence counsel where certain conditions are met (level of penalty incurred, duration of pretrial detention, etc.; articles 24 and 25, Juvenile Criminal Procedural Code). The costs of the mandatory defence counsel or that of the defence counsel appointed by the competent authority may be payable by the adolescent or their parents, if they can afford this. This ensures that children in conflict with the law have a guaranteed right to legal aid. There is, however, no guarantee that such aid will be free of charge. The Federal Council does not intend to amend the provisions of the Juvenile Criminal Procedure Code. Therefore, Switzerland cannot withdraw the reservation it made in this regard.

Question I.22

Please provide updated information on the measures taken to implement the recommendations the Committee made in 2006 in relation to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (CRC/C/OPAC/CHE/CO/1).

92. Apart from the changes listed below, the data given on pages 127 et seq (paragraphs 538 et seq) of the second, third and fourth periodic reports of Switzerland on the Convention on the Rights of the Child, submitted as one document in 2012, are still current:

- Under “2.2 Response to paragraph 10 of the concluding observations“ replace all of paragraph 540 with:

540. There has been no specific increase in asylum applications from unaccompanied minors, while the proportion of such applications is tending to decrease (3.7 per cent of all asylum applications made in 2008 compared with 1.61 per cent in 2013). In 2008, 95.5 per cent of such minors were aged 15 to 18. In 2013, the figure was 87.4 per cent. The physical and mental care of unaccompanied minors seeking asylum is addressed below as well as in chapter VIII.

- Updating of statistical annex No. 518 under paragraph 546 of “2.2.3 Statistics”.

546. There are no statistics relating specifically to child refugees, asylum-seekers or migrants who may have been involved in armed conflict. However, there are statistics on unaccompanied minors seeking asylum, disaggregated by sex, age and origin (see annex 1, Statistics on unaccompanied minors seeking asylum, 2011-2013).

93. The Federal Department of Foreign Affairs has adopted an action plan for 2014-2016 on protecting children involved with armed forces and groups in armed conflict. The plan applies to armed conflict situations, to unstable situations with the potential to lead to armed conflict, and to post-conflict situations, and forms part of the 2013 Swiss strategy for the protection of civilians in armed conflict. Special emphasis will be placed on increasing efforts to prevent child recruitment and to reintegrate those children affected by supporting projects that could make a substantive improvement to children’s daily lives and future prospects. The action plan sets out the following aims for Switzerland:

- Improve compliance by States and non-State groups with existing international child protection norms;
- Strengthen support for child protection at the multilateral level, particularly within the United Nations;
- Work with partner organizations in conflict areas and unstable situations to provide programmes for the physical and psychological recovery and social integration of former child soldiers which offer them opportunities for the future. Switzerland is also taking action to fight against impunity.

Part II

In this section, the Committee invites the State party to briefly (three pages maximum) update the information presented in its report with regard to:

(a) New bills and laws, and their respective regulations

94. Laws and amendments to laws that have come into force since the submission of Switzerland's report are as follows:

- Federal Advancement of Children and Young People Act and its implementing Ordinance, in force since 1 January 2013 (see also answer to questions and I.1 and I.2);
- Amendment of 7 December 2012 to the Ordinance on Admission, Period of Stay and Employment allowing young undocumented persons take up an apprenticeship, in force since 1 February 2013 (see also answer to question I.7);
- New law on the protection of adults and children (article 314 et seq, Civil Code), in force since 1 January 2013 (see also answer to question I.8);
- Revision of the Ordinance on the placement of children outside the family home, in force since 1 January 2013 (see also answer to questions I.8 and I.14);
- Amendment to the Civil Code on parental authority, in force since 1 July 2014 (see also answer to questions I.8 and I.11);
- Amendment to the Criminal Code on forced marriage (article 181a, Criminal Code), in force since 1 July 2013 (see also answer to question I.12);
- Various amendments strengthening the protection of minors against exploitation and sexual abuse (see also answer to question 3 of the list of issues in relation to the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (OPSC)).

95. Draft or amended legislation that is currently being developed is as follows:

- Draft amendment to the Civil Code on a child's right to maintenance, under consideration in Parliament (see also answer to question I.8);
- Draft amendment to the Asylum Act (restructuring of asylum matters), dispatch of 3 September 2014);
- Preliminary draft revision of the law on adoption (see also answers to questions I.8 and I.15);
- Preliminary draft bill on the obligation to notify the child protection authorities (see also answer to question I.8);
- In addition, Switzerland has begun the travaux préparatoires for a possible ratification of the third Optional Protocol to the Convention on the Rights of the Child establishing a communications procedure, as well as Protocol Numbers 15 and 16 to the European Convention for the Protection of Human Rights and Fundamental Freedoms.

(b) New institutions (and their mandates) or institutional reforms

(c) Recently introduced policies, programmes and action plans and their scope and financing

96. Recently introduced policies, programmes and action plans and their scope and financing:

- The launch of an online information platform by December 2015 as part of the implementation of the Advancement of Children and Young People Act (see also answers to questions I.1 and I.4);
- Report currently being drafted on the status of policy with regard to children and young people (see also answer to question I.2);
- Cantonal integration programmes, in force since 2014 (see also answer to question I.7);
- Pursuant to article 26 of the Advancement of Children and Young People Act, which allows the Confederation to allocate financial aid to the cantons for programmes aimed at establishing and developing their policies on children and young people, four cantons have already signed contracts with the Federal Social Insurance Office for 2014-2016:
- Basel-Landschaft: a development programme to support children and young people, covering all aspects of advancement, protection and participation. In broad terms, this consists of steering and coordination, access to services, advice and prevention, as well as encouraging the participation and protection of children;
- Bern: The aim of the project is to standardize and harmonize disparate funding and oversight structures for the provision of mobile, semi-fixed and fixed supplementary educational support services. The main support services for children and young people provided as supplementary educational support come from the basic range of services available and include community support for families and placement of children in care homes or with foster families;
- Uri: One of the two focuses of this programme is the involvement of children and young people in municipal and regional development. The plan is to develop legal bases and to establish the general conditions in which a comprehensive policy for children and young people can be pursued, including through strengthening initiatives focused on participation and advancement;
- Valais: the canton has set up an Observatory for Young People, through which it seeks on the one hand to bring together the various partners with responsibility for young people to improve the work they do together, and on the other to collect and centralize data, which will first be used to prepare inventories in all areas that concern young people and then to draft a report.

97. Contracts for the period 2015-2017 with the cantons of Vaud, Fribourg, Neuchâtel and Schwyz are in the process of being prepared and are due to be signed in the coming months:

- National Action Plan against Trafficking in Human Beings. The plan, drafted by the Coordination Unit against the Trafficking in Persons and Smuggling of

Migrants, covers the period 2012-2014 and includes 23 measures in the areas of prevention, law enforcement, assistance to victims and cooperation (see also answer to question 3 of the list of issues relating to the OPSC);

- The Conference of the Cantonal Ministers of Public Health, the Federal Office of Public Health and the Foundation “Promotion Santé Suisse” are developing a report on mental health, both as part of the Government’s overall strategy “Health 2020”, and in response to a parliamentary request (Postulate 13.3370 “Measures planned in the field of mental health in Switzerland”). The report will draw up an inventory of the current situation and will set out the measures to be implemented. It will also propose a series of mental health measures for the short, medium and long term;
- The “Réseau Santé Psychique Suisse” (Mental Health Network Switzerland, www.npg-rsp.ch) under the responsibility of the Federal Government (the Office of Public Health, the Federal Social Insurance Office and the State Secretariat for Economic Affairs), the Conference of the Cantonal Ministers of Public Health and the Foundation “Promotion Santé Suisse” will prioritize for this year and next year “the mental health of children and adolescents”;
- The Federal Department of Foreign Affairs has adopted an action plan for 2014-2016 on protecting children involved with armed forces and groups, or involved in armed conflict (see also answer to question I.22).

98. At the cantonal level, actions include:

- The creation of a children and young people subject area at the Conference of Cantonal Ministers of Social Affairs (see also answers to questions I.1 and I.2);
- A new cantonal strategy “(Leitbild) for children and young people from the canton of Lucerne, approved on 2 July 2014, which contains six action areas;
- The new Advancement of Children and Young People Act of the canton of Obwalden, which came into force on 1 February 2013;
- 21 March 2013 Guide for child and youth workers in the canton of St.Gallen;
- March 2014 strategy of the canton of Thurgau for a coordinated policy on the family, children and young people;
- Several cantons are currently developing canton-level strategies for their individual policies on children and young people, including: Bern, Neuchatel, St. Gallen, Schwyz, Vaud and Zug (see also above).

(d) Recent ratifications of human rights instruments

99. Recent ratifications of human rights instruments:

- On 15 April 2014, Switzerland ratified the Convention on the Rights of Persons with Disabilities of 13 December 2006. The Convention entered into force in Switzerland on 15 May 2014;
- On 4 June 2014, Switzerland ratified the Maternity Protection Convention (Number 183) of the International Labour Organization. Convention Number 183 will enter into force in Switzerland on 4 June 2015;

- The Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse of 25 October 2007 (the Lanzarote Convention) entered into force in Switzerland on 1 July 2014.

Part III

Data, statistics and other information, if available

Question III.1

Please provide data on the budget appropriations made for children in the past three years, indicating the percentage of the national budget and gross domestic product represented by each budget line and their allocation at the national level.

100. Unfortunately, we do not have figures or statistics on this subject. Gathering the information requested would be a very complex exercise because of the distribution of tasks and responsibilities between the different levels of the State in Switzerland (federalism). Moreover, the data requested raises a large number of questions; definitions should be absolutely clear and limits precisely described in advance. To ensure the quality requirements are sufficiently well met, data collection and what results from that data should indeed go far beyond a vague estimate that is not representative of reality.

Question III.2

Please provide updated statistical data (disaggregated by age, sex, ethnicity, geographic location and socio-economic status) covering the past three years on the number of:

- (a) **Child victims of ill-treatment, violence and abuse, including sexual abuse, as well as the number of complaints, investigations, prosecutions and convictions in this regard**

101. With regard to letters (a)-(e), table 1 at annex 2 sets out the results from police crime statistics relating to complaints made to the police, without taking into account socio-economic circumstances.

- (b) **Crimes of infanticide committed**

102. See above and accompanying tables. Table 1 (annex 2) on child victims of violence provides data on homicides, including attempted homicides. Table 2 (annex 3) on suicides and homicides, provides data on homicides of children.

- (c) **Children cared for by the mental health services who suffer from behavioural problems, as well as suicides and attempted suicides among children**

103. For information on the number of child suicides by age and gender, see table 2. However, no information is available on attempted suicides.

(d) Children and adolescents who abuse drugs or alcohol

104. Table 3 (annex 4) shows the number of children reported for drug use between 2011 and 2013. Table 4 (annex 5) shows estimates regarding the use and abuse of alcohol and drugs among 15 to 17 year olds. As the data come from a sample survey, the results are enhanced by confidence intervals.

(e) Children whose parents are in prison

105. There are no data available.

(f) Children adopted outside the framework of the Hague Convention

106. There are no data available but see answer to question I.15.

(g) Migrant or refugee children

107. These data relate to applicants who were under the age of 18 when they made their application. It is worth nothing that asylum applications concerning children who are in Switzerland with their parents during their parents' asylum procedure are considered as new asylum applications. Data relating to economic circumstances are not recorded in the database and so are not available (see annex 6, asylum applications made by minors).

(h) Undocumented children

108. There are no data available on this subject.

Question III.3

In addition, please provide updated statistical data covering the past three years (disaggregated by age, sex, ethnicity, geographic location and socio-economic situation) on the situation of children deprived of their family environment, including the number of children:

- (a) Separated from their parents;**
- (b) Placed in institutions;**
- (c) Placed in foster homes;**
- (d) Abandoned by their families, particularly those placed in baby hatches;**
- (e) Adopted in Switzerland or abroad.**

109. There are no data available on this subject. The Conference of the Cantons on Protection of Minors and Adults has no information at the level of detail requested. The Conference issues annual figures relating to measures taken.¹¹ The revocation of the right to decide on place of residence (article 310, Civil Code) and withdrawing parental authority (articles 311 and 312, Civil Code) contained in these

¹¹ Published at: www.kokes.ch/fr/willkommen.php > Documentation > Statistiques > Année actuelle.

statistics only constitute part of the figures requested. Children placed directly by their parents into care homes or with relatives are not included.

110. Since 2013, social welfare statistics have reported on measures financed through social welfare (but again, this is only one aspect of the placement of children and adolescents outside the family home).

Question III.4

Please provide updated statistical data covering the past three years (disaggregated by age, sex, geographic location, type of disability and socioeconomic status) on the number of children with special needs, including children with autism spectrum disorders:

- (a) **Living with their families;**
- (b) **Living in institutions;**
- (c) **Placed in psychiatric hospitals;**
- (d) **Regularly attending primary school;**
- (e) **Regularly attending secondary school;**
- (f) **Attending special schools;**
- (g) **Not attending school;**
- (h) **Abandoned by their families.**

111. There are no data available. However, the figure at annex 7 shows the number of people suffering from mental illness or significant developmental delays who are between 0 and 19 years old and receiving invalidity insurance benefits.

Question III.5

Please update any information contained in the report that may be outdated and provide information on recent developments related to the rights of the child.

Question III.6

In addition, the State party might wish to list the issues affecting children that it considers to be important with regard to the implementation of the Convention.

112. The most important developments are described in the replies above.
